



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED FOR FAILURE TO PROSECUTE: January 25, 2012

CBCA 2458, 2459

AARON O'DANIEL,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

Aaron O'Daniel, pro se, Carmi, IL.

Scott F. McCleary, Office of Regional Counsel, General Services Administration,
Chicago, IL, counsel for Respondent.

Before Board Judges **POLLACK**, **McCANN**, and **DRUMMOND**.

POLLACK, Board Judge.

On June 13, 2011, Aaron O'Daniel, appellant, filed appeals as to separate contracting officer decisions assessing him, in each, a penalty of \$325 for not paying for and removing property bid on at a General Services Administration (GSA) auction, where Mr. O'Daniel was the low bidder. Mr. O'Daniel contended among other defenses that he never received the email message notifying him of his successful bids.

Due to the small amount in contention and the fact that Mr. O'Daniel was proceeding *pro se*, the Board did not ask for the standard pleadings, but instead held a telephone conference on August 3, 2011, with Mr. O'Daniel and counsel for GSA. After reviewing the facts as presented by both parties, the Board advised Mr. O'Daniel that there appeared to be disputed facts, so both parties would have an opportunity to provide additional information before the Board would make a decision. The Board then explained the procedures available

to Mr. O'Daniel, including proceeding with affidavits and allowing him to elect the Board's small claims or accelerated procedures. Mr. O'Daniel was not given a specific date to respond; however, he was directed to advise the Board as to how he wished to proceed.

Thereafter, the Board received no response from Mr. O'Daniel. Consequently, on October 25, 2011, the Board issued an order directing Mr. O'Daniel to provide a response by November 7, 2011, as to an election of procedure. The order additionally recited that his failure to respond could result in a show cause order, which could lead to dismissal of his claims.

On December 1, 2011, the Board received a motion to dismiss from government counsel citing appellant's failure to reply to Board directions.

By order dated December 1, 2011, appellant was given an additional opportunity to respond. The order explained that it was his responsibility to pursue his case and that the responsibility included responding to Board orders. The order further specified that appellant was to show cause by December 15, 2011, as to why the Board should not dismiss the appeal with prejudice for failure to prosecute.

Mr. O'Daniel has not responded to the December 1, 2011 order.

Decision

Accordingly, the Board **DISMISSES** the appeal **FOR FAILURE TO PROSECUTE**.

HOWARD A. POLLACK
Board Judge

We concur:

R. ANTHONY McCANN
Board Judge

JEROME M. DRUMMOND
Board Judge